The Islamic State between Religious and Civil Regimes



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- 62 -

بسم الله الرحمن الرحيم

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May God guide us towards the right path

A. Jirari

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The Islamic State between Religious and Civil Regimes

It is no secret that what has come to be known as the “Arab Spring” and the associated uprisings which were and continue to be experienced by some Arab countries these past years did not arise from the void as some might think. They were in fact the result of an arduous and protracted labor endured by these countries throughout long eras of regression and decline during which corruption festered and spread to all aspects of life, especially under regimes built largely around oppression and tyranny.

It is possible that the first stirrings of these events lie in what was called four decades ago the “**Islamic awakening**” which reflected the level of awareness gained about reality and the need for change, especially since the ideologies prevailing in most Arab countries revealed their inadequacies, including Arab nationalism, liberalism, socialism and other left-wing currents and totalitarian and

authoritarian regimes. This awareness was translated in some Muslim societies into a need to return to religion as the salvation out of this reality.

Despite the failure of this Arab awakening to achieve the goals expected from it, it remained simmering like embers under ash, until it finally erupted again in the form of the “Arab Spring”. This Spring toppled regimes and exposed the weakness of the political parties and the slogans they were advocating to create a civil state edified around justice and the respect of law, something they could actually never achieve in the absence of a citizen-oriented culture. It also cast doubts on the credibility of these parties which, despite their so-called modernism, were unable to take the true measure of the people who have lost all trust in them.

This allowed the «Spring» to pave the way, either by force or by ballot, for ‘Islamist’ parties, providing them with a launching pad to power as people pinned high hopes on them to improve their dismal conditions and alleviate their sufferings at all levels. These parties, whose leaders were engaged in Daawa activities, promoted idealist

reform slogans in the name of religion, including social justice and the end of corruption under all its forms, with these slogans greatly facilitating their ascent to power.

But these parties' lack of political experience and their poor knowledge of how to manage State affairs, coupled with their inability to come up with concrete and feasible projects and programs forced them to backtrack, unable to fulfill their promises. But prior to that, they had suffered much confusion and dilemma, unable to find Islamic solutions to many of today's problems, and to confront the challenges and constraints they came up against not only on the political front but most importantly in the economic, social and cultural fields where problems are harder to solve, thus exacerbating the situation and worsening tensions.

The debate thus raged on between intellectuals, political players and other relevant stakeholders about the nature of the State that could provide an alternative and a respite from the ailments of the new regimes. Should it be a religious state or a civil one? This debate acquired significant proportions in a country like Egypt, threatening this

country's unity and its security and stability. The repercussions of such threat are still hard to fathom in the current juncture of sectarian conflict between Muslims and Christians, and among Muslims themselves, divided between followers of the Brotherhood who are firmly attached to the "legitimacy of elections," and their opponents among the champions of the Tamarrud movement and proponents of a civil revolution, or what they describe as "the legitimacy of the people». This rift prompted the army to intervene in order bring the situation under control, immediately triggering violent conflicts between these various parties. We should not either lose sight of the open and implicit positions taken by some world powers in favor of one party or the other, particularly in light of the revolution against the status quo in most Arab countries, as they calculated how such a revolution could serve their interests in those countries.

Far from any emotional or intellectual bias for this or that side, I looked at the matter through what I hope are neutral but also compromising eyes.

My perspective is documented in this paper that I significantly titled "**The Islamic state between the religious and the civil regimes.**"[1]

The wording of this title may need some explaining, starting with the description of a state as "Islamic", implying that it is based on Islam with all the legal texts, values and other relevant elements that shape the State in Islam, irrespective of the civil framework this system adopts and as long as it derives its identity from those texts, values and components.

An Islamic state is one associated with a religious frame of reference, Islam being a doctrine that calls for absolute monotheism in the worship of God who alone created the universe, ordered it and manages it through His might and power, just as it calls for faith in angels, divine books and the

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[1] The author has previously published a number of studies on this issue:

- **On Political Poetry** (Publications of Dar al-Thaqafa, Casablanca, two editions, 1974 and 1982)
- **Moroccan Landmarks** (1st edition, Rabat, 1411AH/1991AD)
- **Responsibility in Islam** (Publications of al-Jirari Club, issue 10, 1st edition, Rabat, 1417AH/1996AD)
- **Islam and Secularity** (in Arabic, French and English), Publications of al-Jirari Club, issue 26, 1st edition, Rabat, 1424AH/2003AD).
- **The State in Islam**, Publications of al-Jirari Club, issue 27, 1st edition, Rabat, 1425AH/ 2004AD).

Apostles, in destiny with its good and evil and in the Day of Reckoning, with everything this spiritual and spoken profession of faith requires in terms of devotional and ritual obligations that connect the faithful to God and keep him close to His Creator and conscious of His eyes.

Along with this profession of faith, Islam is also a code of conduct that represents the educational and moral mould of man through a set of lofty principles, reviving his spirit, stimulating his conscience and accompanying him in all stages of life to ensure that he acts in goodness to himself, God and other people.

But first of all, Islam is an approach defined by a set of principles and rules upon which the Islamic state is built in the various political, economic, cultural and social arenas and thanks to which the State's system takes shape.

It is no secret that the "system" -any system- takes shape in the body of regulations and laws that govern the state and by which it abides in the conduct of public and private affairs. These rules and regulations determine a state's nature and form of representation, the sovereignty it enjoys, and the

relations that bind it both to its citizens in terms of their rights and obligations, and to other states. The state founded around this system becomes a reality once it is established on a delineated territory where a community co-exists in all safety and stability and once this state takes hold of the powers to be exercised and that confer on it the status of a moral entity.

When we differentiated in this presentation's title between two types of regime, we meant by "religious" one that not only keeps religion close to the affairs of the public but also gives it predominance over public life. This system places the ruler in charge of this life according to a radical "un-Islamic" concept similar to the one that prevailed in old times in Europe - and France in particular - whereby kings considered their authority as emanating from God who appointed them to shoulder that responsibility. God being the origin of that authority, they are accountable before Him alone. It is perhaps this perception, which served as foundation for the theory of divine right, that is used today by the opponents of the Islamic frame of reference in their clamoring for the

separation of religion from State, arguing that adopting such frame of reference means a rule based on that theocratic theory. And that is certainly not what I am driving at here, as we will see.

The “civil” system proposes that the governance of state affairs must not be subjected to religion which should remain a personal matter confined within the scope of freedom of belief. It considers people as the source of power and the entity practicing this power, that the ruler derives his power from the people who exercise the sovereignty through their representatives as advocated in the myriad forms of democracy, i.e. no matter how diverse the practice of this law-abiding democracy is so along as it is within a framework of freedom, justice and other legitimate rights and what may be provided for by the Constitution and the institutions it creates. This is close to what is advocated in the Islamic reference approach which, as we will see, is not entirely incompatible with the existence of a civil state.

Before going into detail about this frame of reference, I would like to underline a couple of points. The first one pertains to the term “politics” and whether Arabs and Muslims have known and used it; and the second one pertains to systems of governance that are contrary to the Islamic way but are still insistently attributed to Islam by its opponents.

“Politics” as a term and a concept and in its many linguistic variations was known and widely used by Arabs and Muslims. The noble Prophet’s hadith says: “*The children of Israel were governed by their prophets.*”[2] This hadith was commented upon by Ibn Mandhoor in Lissan al-Arab saying: “*They took charge of their affairs just as princes and rulers did with their subjects.*”[3] In his truncated sermon, Ziyad said: “*We have become your shepherds and your protectors.*”[4] And while there is no mention in the Quran of the word politics, the notion of authority and command does appear in the Holy verse [**And consult them in affairs (of moment)**]

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[2] Narrated by Ibn Majah on the authority of Abu Huraira, in “*al-Jihad*” book.

[3] Cf. Souss Item.

[4] Cf. “**al-Bayan wa at-Tabyin**”, *al-Jahiz*, Vol. 2, p. 62 (Drafting, Translation and Publishing Committee, Cairo, 1367 H/1948).

(*Al-Imrane*, verse 159). and the divine saying [**O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you.**] (*An-Nisaa*, verse 289)

Many tafsir scholars have relied on this verse to prove the obligatory nature of the office of imam, considering it part of the legislative scope where Muslims have shown great ijtihad since succession to Prophet Mohamed (PBUH) was entrusted to Abu Bakr, although they disagreed as to whether it was an Islamic obligation or a necessity dictated by the needs of Muslim life after the death of the Prophet, peace be upon him.

Considering the importance of this duty, most Muslim Sunni scholars addressing the matter of governance and politics have decreed it as obligatory. Among these scholars we find Ibn al-Fura in al-Ahkam al-Sultaniyya, al-Mawardi in Al-Ahkam al-Sultaniyya, Ibn Khaldun in al-Muqaddimah, and Ibn Hazm in al-Fisal fi al-Milal wa al-Ahwaa wa al-Nihal who based his argument on the divine verse: [**On no soul doth Allah place a burden greater than it can bear**] (*Al-Baqara*, verse 286) to deduce that the Almighty does not

burden people with what is beyond their power, implicitly indicating the mandatory presence of those who can carry such responsibility[5].

Regimes that contradict governance as it is defined in Islam, whether they existed in ancient times or modern ones include:

1. Theocracy, as mentioned earlier.

2. Autocracy: a system in which the reins of power are held in the hands of a single person. This was case for example with the Tsars of the Russian Empire and the Chinese emperors.

3. Oligarchy which is close to the above-mentioned regime and where the power structure is held by an individual, a family or a tribe whose power lies in its financial wealth or noble lineage. This was the case with the Greeks, the Carthaginians and the Romans.

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[5] For the Shiaa, the office of the *imam* is a fundamental issue and a position made compulsory either by text or by testament, explicitly or implicitly. However, they confined it to Ali and his descendants and therefore it can only leave their lineage by an act of injustice or by conscious decision taken for the greater good. At the other end of the spectrum, Khawarij scholars considered that there was no need for an *imam* as long as the Ummah respected and adhered to the Holy Book and the Sunnah of His Prophet. Others considered the office of the *imam* as acceptable provided the right to serve as *imam* was granted to every Muslim known to be fair, and at first even considered it the right of every free Arab.

4. Secularism which believes in the separation of religion from state, and the removal of catholic clergy from the state's ruling structures. This trend first emerged in France where it continues to be adopted today.

5. Secularity which is close to secularism and was prevalent in England and among the Protestants.

If we revert to our subject, we will find that Islam did not set out a given and detailed government system, but instead it laid down principles and foundations. It drew out guiding lines and left it to the Muslims to use them as a starting point from which they would branch out to choose what is suitable for their times and environments, and derive that which meets their needs.

These principles and fundaments can be defined in the following four pillars:

First: the premise that Allah is the Ultimate Ruler who disposes of the universe and manages its affairs, and that the human being was appointed by Allah as vice-regent to fulfill this duty. Addressing His noble Prophet, Allah (SWT) says: [**Not for thee,**

(but for Allah, is the decision] (*Al-Imrane*, verse 128), and also: [**The command is for none but Allah. He hath commanded that ye worship none but Him: that is the right religion, but most men understand not.**] (*Yusuf*, verse 40). The Quran insisted on this in three consecutive verses where the Almighty said: [**If any do fail to judge by (the light of) what Allah hath revealed, they are (no better than) Unbelievers…And if any fail to judge by (the light of) what Allah hath revealed, they are (No better than) wrong-doers…If any do fail to judge by (the light of) what Allah hath revealed, they are (no better than) those who rebel.**] (*Al-Maida*, verses 46-47-48)

Second: Man's fulfillment of this mission is conditional upon his being righteous and pious, and his establishment of justice among people without any discrimination. Allah says: [**Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between man and man, that ye judge with justice**] (*An-Nisaa*, verse 58), and: [**Whenever ye speak, speak justly, even if a near relative is concerned; and fulfill the covenant of Allah.**

Thus doth He command you, that ye may remember.] (*Al-Anaam*, verse 152)

To ensure the best fulfillment of this task, scholars have identified the conditions to be met in the ruler in addition to justice. These criteria are: knowledge, efficiency, soundness of senses and Quraishi descent about which they diverged. Ibn Khaldun had attributed this to the tribal loyalty shown to Quraish back then.[6]

Third: Islam defined the way this mission is entrusted by linking it to the act of allegiance which is either a spoken to a written covenant freely entered into by the ruler who is no more than a mujtahid and executor and whose opinion does not carry any sacredness, and an Ummah that is sovereign and is represented by its delegates who in the Islamic perspective hold the power to conclude or invalidate contracts. And by virtue of this contract, the Ummah owes its ruler obedience which is conditional upon how well he serves its interests and manages its affairs. He, on the other hand, is required to implement Allah's

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[6] **Al-Muqaddimah**, page 193, edition of Matabi' al-Amiriyya.

commandments, serve to the best the interests of his subjects based on righteousness and justice, and ensure the conditions of their wellbeing such as a livelihood, security and stability are met, in compliance with Allah's saying: [**Thy duty is but to convey (the Message).**] (*Al-Shura*, verse 48). The Quran mentioned two acts of allegiance that were pledged to Allah's Messenger (PBUH):

1. The allegiance of women, also pledged by men, and about which the Almighty said: [**O Prophet! When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with Allah, that they will not steal, that they will not commit adultery (or fornication), that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter,- then do thou receive their fealty, and pray to Allah for the forgiveness.**] (*Al-Mumtahana*, verse 12)

2. The allegiance by the tree under which the Prophet (PBUH) used to sit and about which the Almighty says: [**Allah was well pleased with the**

believers when they swore allegiance unto thee beneath the tree, and He knew what was in their hearts, and He sent down peace of reassurance on them, and hath rewarded them with a near victory, and much booty that they will capture. Allah is ever Mighty, Wise.] (*Al-Fath*, verses 18-19). The Quran confirms that these acts of allegiance are in fact an allegiance to Allah in response to His call and in support of His religion. The Almighty says: [**Verily those who plight their fealty to thee do no less than plight their fealty to Allah. The Hand of Allah is over their hands: then any one who violates his oath, does so to the harm of his own soul, and any one who fulfils what he has covenanted with Allah,- Allah will soon grant him a great Reward.**] (*Al-Fath*, verse 10)

Fourth: For justice to be achieved, in full freedom from tyranny, oppression, confusion and chaos, Islam promoted the principle of "Shura", which guarantees that society's members take part in managing their affairs either directly or by electing delegates to represent them. This is considered as an obligation in all schools of

jurisprudence, especially in cases where there is no definitive text from the Quran or the Sunnah, no provisions governing the application of a text when it exists, when consensus cannot be reached on a given matter, and when the issue arising is topical and time-related. This fundament of governance is the closest to the concept of Western "democracy". Allah says in a praise of the Ansars: [**Those…who (conduct) their affairs by mutual Consultation**] (*Al-Shura*, verse 35)[7], i.e., all their affairs are managed by the entire community. The Almighty also says, urging the Noble Prophet: [**and consult them in affairs (of moment).**] (*Al-Imrane*, verse 159). The Prophet (PBUH) is the one who said: "*You know better the affairs of your worldly life.*"[8] He (peace and blessings be upon him) was the one to advise his companions on the issue of palm tree pollination not to pollinate the trees. When the trees did not bear any fruit, he said: "*I am only a human being like you. If I tell you to do something with regard to religion, then follow it, but if I tell you*

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[7] The titling of this Quranic chapter as *al-Shura* enhances the importance of this aspect.
[8] Narrated by Muslim on the authority of Aisha and Anas.

to do something based on my own opinion, I am only a human being.”[9]

It is clear from these principles and fundaments that the establishment of a State on an Islamic frame of reference does not mean that the State’s rules and regulations acquire a sacred character as is believed in theocratic power structures. Instead, they are human interpretations based on a specific understanding of the texts that Allah revealed and that He ordered us to use as a foundation of our rule, as indicated in the divine verse: [**Judge thou between them by what Allah hath revealed.**] (*Al-Maida*, verse 49). As such, they become interpretations that are subject to review and renewal.

After the Prophet’s death, Muslims faced the problem of his succession with what they considered as beneficial for them and for their religion. They ended up pledging allegiance to Abu Bakr in view of his position vis-à-vis the Prophet (PBUH). And then Omar Ibn al-Khattab was chosen as successor by written covenant, also in view of his

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[9] Narrated by Muslim on the authority of Rafii Ibn Khadij.

status. Omar, on the other hand, created before his death a Shura Council to debate the issue of succession which fell after many negotiations to Othman Ibn Affane who pledged to act by the Book of Allah and the Sunnah of His Messenger, and to follow in the steps of the two caliphs who preceded him.

However, and in view of conditions that prevailed at that time, Ibn Affane faced many challenges in the practice of state affairs and was largely criticized for his policy, the result being an uprising that demanded his ousting. But he defied these demands with famous sentences such as: "*As for your request for me to step down, I tell you that I will not shed the cloak that Allah bestowed on me and honored me with*", and also "*that I renounce to the caliphate and allow you to crucify me is more acceptable to me than to renounce Allah's commandments.*"[10]

Othman was then killed at the hands of the rebels, and the events that ensued events were fraught with conflicts and strife in Islamic history,

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[10] *Jamharat Rasail al-Arab fi Usur al-Arabiyah al-Zahirah*, Ahmed Zaki Safwat, Vol. 1, p. 103, al-Maktabah al-Ilmiyah, Beirut.

starting with the division of the caliphate between Ali Ibn Abi Talib in the Levantine (including the Arab Peninsula, Iraq, and the conquered Persian lands), and Muawiyah in the western side which included Egypt, Syria and the conquered African lands. These conflicts and divisions translated a power play and derived legitimacy from an assortment of jurisprudence texts that were aimed at serving immediate interests and factional desires of which the repercussions continue, sadly, to plague Muslims today.

There is no doubt that reconsidering these interpretations and pondering the events that happened on their account in their time and space contexts is what enriched the annals of Islamic fiqh, in need of review more than any other time before, not only to update them but also to add to them, particularly with regard to the topical issues and new problems arising and requires effective solutions based on religious constants but approached from a moderate perspective. However, and contrary to belief, these problems are not limited to the political aspect. They affect all other areas of life, especially the economy which should

be steered towards the fulfillment of a social justice that guarantees human dignity, values work and efficiency and shuns injustice, exploitation, monopoly, wastefulness and foolishness. Thus, economy would be placed within a proper context that dictates the good utilization of financial and production resources in general, in accordance with clear investment and distribution criteria and in such a way as to develop production and guarantee a decent life for all citizens.

What applies to the economy applies to other vital aspects, starting with the raising of generations through a modern educational system with information systems capable of producing knowledge that can - in practice and not only in theory - open up the prospects of innovation and free creativity in every area. They also include scientific research that is responsive to today's requirements while taking into account the moral values and foundations of a sound education that shapes a good citizen capable of being self-reliant, of showing initiative and of working hard towards advancing his country.

Diligence in all of these areas remains conditional upon the extent of understanding religious fundaments by those studying them, their ability to analyze, interpret and infer from them what can be used in practice and thus help find solutions for the progress inherent to reality with its constraints and challenges. Their measure of success is dependent upon their enlightened wisdom and foresight, a matter that puts to the test the intellectual and political elites of today.

Needless to say, passing such a test with success requires a corrective revolution in Islamic thought in order to break the constraints standing in the way of a true ijtihad that reveals the essence of this thought in all freedom and openness to all ideas and trends, whilst steering clear of the pitfalls of Western thought and the deviations of Islamic thought, as well as of the confusion between what Islam stands for as a divine religion, and what thought is born in the minds of Muslims.

The formulation of a frame of reference based on ijtihad-based thought will prevent the rise of a sectarian, factional or ethnic rule that champions one side and neglects or fights the rest in

authoritarian tendencies. It will also prevent the rejection of one's country and its needs, starting with the coexistence of all within its folds, with no discrimination between followers of various religious or sectarian denominations and political or cultural affiliations, especially when this nation is characterized by multiculturalism and diversity in these aspects.

This entails a clear conceptualization of the state to be edified along the lines of this frame of reference, starting with religious texts, taking into account reality's demands, and drawing lessons from former experiences of Islamic rule. These start with the eras of the Prophet and the Rightly-guided caliphs without trying to literally emulate their experiences, and avoid at the same time the mutations that affected the Islamic State after that era and turned it, in our opinion, into systems engrossed by personal interests and desires, and the resulting tyranny, injustice, rife corruption and neglect of public affairs.

To speak about a sound frame of reference in this context does not mean the model of a specific party or organization that bases its slogans on

religion to serve its own interests. Islam as a perfect and universal religion is capable of standing not only through its laws and tenets but also through its system of moral values that make it capable of embracing all and sundry and accommodating different groups and cultures, in full respect of Muslims regardless of their differences, and of non-Muslims when they evolve within the framework of a citizenship status that shuns ethnic or sect-based discrimination but remains fully aware of the all-encompassing national identity, starting with the land and ending with the other components of this identity such as religion, language and culture regardless of the multiplicity and diversity that may exist in these components and that can only reinforce integration, harmony and cohesion. This presupposes that we expand the circle of responsibility of those who are in charge to include scientists and experts from all disciplines, and not just religious scholars, and refuting the claim that understanding and implementing the Charia is the exclusive prerogative of a certain class of citizens.

As we gear up to expand this circle of responsibility, we must remain alert to the

recurrent -albeit limited- protest movements taking place in some Arab countries that seem on the surface immune to the “Arab Spring” revolutions. These protests reflect a social dissatisfaction that may, despite reforms, lead to widespread disgruntlement that may escalate to torrential proportions that would be difficult to respond to, let alone stop or reverse.

In order to preserve the stability of these countries, edified around power systems that were consecrated by historical factors and other intellectual and social ones, this stability needs to be protected and preserved through a continuation of those reforms, based on the stipulations of the Islamic frame of reference of which we addressed a few aspects in this presentation.

In conclusion and to sum up the main features of this frame of reference, we can define these in the following points:

1. The Islamic frame of reference does not mean the exclusion of what is mundane or worldly, keeping in mind that what is material or worldly is not necessarily secular or an antithesis of religion.

2. This frame of reference is based on two pillars:

First: *Fiqh* rules of which the sources are the Quran, the Sunnah and the consensus of scholars.

Second: Material provisions that are flexible and open to upgrade or change.

3. Religious texts are in need of *ijtihad* to be understood and for judgments to be inferred from them from a civil perspective that takes into account time-responsive interests.

4. The adoption of an Islamic frame of reference in some civil aspects does not mean relinquishing the constants of religion.

5. The most important equation that the Islamic frame of reference needs to solve is how to reconcile democracy, as a governing system practiced in Western countries under multiple forms that are not flaw-free despite their attractiveness, with the *Shura* as an Islamic governance principle that has taken many forms since the times of the Prophet and the Rightly-guided *Caliphs*.